



General Assembly

February Session, 2016

Raised Bill No. 5425

LCO No. 1860



Referred to Committee on COMMERCE

Introduced by:
(CE)

***AN ACT AUTHORIZING THE CREATION OF CONNECTICUT
BROWNFIELD LAND BANKS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 32-760 of the 2016 supplement to the general
2 statutes is repealed and the following is substituted in lieu thereof
3 (*Effective July 1, 2016*):

4 As used in this [section and sections 32-761 to 32-769, inclusive]
5 chapter:

6 (1) "Bona fide prospective purchaser" means a person who acquires
7 ownership of a property after July 1, 2011, and establishes by a
8 preponderance of the evidence that:

9 (A) All disposal of regulated substances at the property occurred
10 before such person acquired the property;

11 (B) Such person made all appropriate inquiries, as set forth in 40
12 CFR Part 312, into the previous ownership and uses of the property in
13 accordance with generally accepted good commercial and customary

14 standards and practices, including, but not limited to, the standards
15 and practices set forth in the ASTM Standard Practice for
16 Environmental Site Assessments, Phase I Environmental Site
17 Assessment Process, in effect on the date such person acquired the
18 property. In the case of property in residential or other similar use at
19 the time of purchase by a nongovernmental or noncommercial entity, a
20 property inspection and a title search that reveal no basis for further
21 investigation shall be considered to satisfy the requirements of this
22 subparagraph;

23 (C) Such person provides all legally required notices with respect to
24 the discovery or release of any regulated substances at the property;

25 (D) Such person exercises appropriate care with respect to regulated
26 substances found at the property by taking reasonable steps to (i) stop
27 any continuing release, (ii) prevent any threatened future release, and
28 (iii) prevent or limit human, environmental or natural resource
29 exposure to any previously released regulated substance;

30 (E) Such person provides full cooperation, assistance and access to
31 persons authorized to conduct response actions or natural resource
32 restoration at the property, including, but not limited to, the
33 cooperation and access necessary for the installation, integrity,
34 operation and maintenance of any complete or partial response actions
35 or natural resource restoration at the property;

36 (F) Such person complies with any land use restrictions established
37 or relied on in connection with the response action at the property and
38 does not impede the effectiveness or integrity of any institutional
39 control employed at the property in connection with a response action;
40 and

41 (G) Such person complies with any request for information from the
42 Commissioner of Energy and Environmental Protection;

43 (2) "Brownfield" means any abandoned or underutilized site where

44 redevelopment, reuse or expansion has not occurred due to the
45 presence or potential presence of pollution in the buildings, soil or
46 groundwater that requires investigation or remediation before or in
47 conjunction with the redevelopment, reuse or expansion of the
48 property;

49 (3) "Commissioner" means the Commissioner of Economic and
50 Community Development;

51 (4) "Contiguous property owner" means a person who owns real
52 property contiguous to or otherwise similarly situated with respect to,
53 and that is or may be contaminated by a release or threatened release
54 of a regulated substance from, real property that is not owned by that
55 person, provided:

56 (A) With respect to the property owned by such person, such person
57 takes reasonable steps to (i) stop any continuing release of any
58 regulated substance released on or from the property, (ii) prevent any
59 threatened future release of any regulated substance released on or
60 from the property, and (iii) prevent or limit human, environmental or
61 natural resource exposure to any regulated substance released on or
62 from the property;

63 (B) Such person provides full cooperation, assistance and access to
64 persons authorized to conduct response actions or natural resource
65 restoration at the property from which there has been a release or
66 threatened release, including, but not limited to, the cooperation and
67 access necessary for the installation, integrity, operation and
68 maintenance of any complete or partial response action or natural
69 resource restoration at the property;

70 (C) Such person complies with any land use restrictions established
71 or relied on in connection with the response action at the property and
72 does not impede the effectiveness or integrity of any institutional
73 control employed in connection with a response action;

74 (D) Such person complies with any request for information from the
75 Commissioner of Energy and Environmental Protection; and

76 (E) Such person provides all legally required notices with respect to
77 the discovery or release of any hazardous substances at the property;

78 (5) "Department" means the Department of Economic and
79 Community Development;

80 (6) "Economic development agency" means (A) a municipal
81 economic development agency or entity created or operating under
82 chapter 130 or 132; (B) a nonprofit economic development corporation
83 formed to promote the common good, general welfare and economic
84 development of a municipality or a region that is funded, either
85 directly or through in-kind services, in part by one or more
86 municipalities; (C) a nonstock corporation or limited liability company
87 established or controlled by a municipality, municipal economic
88 development agency or an entity created or operating under chapter
89 130 or 132; or (D) an agency, as defined in section 32-327;

90 (7) "Eligible costs" means the costs associated with the investigation,
91 assessment, remediation and development of a brownfield, including,
92 but not limited to, (A) soil, groundwater and infrastructure
93 investigation, (B) assessment, (C) remediation, (D) abatement, (E)
94 hazardous materials or waste disposal, (F) long-term groundwater or
95 natural attenuation monitoring, (G) (i) environmental land use
96 restrictions, (ii) activity and use limitations, or (iii) other forms of
97 institutional control, (H) attorneys' fees, (I) planning, engineering and
98 environmental consulting, and (J) building and structural issues,
99 including demolition, asbestos abatement, polychlorinated biphenyls
100 removal, contaminated wood or paint removal, and other
101 infrastructure remedial activities;

102 (8) "Financial assistance" means grants, loans or loan guarantees, or
103 any combination thereof;

104 (9) "Innocent landowner" has the same meaning as provided in
105 section 22a-452d;

106 (10) "Interim verification" has the same meaning as provided in
107 section 22a-134, as amended by this act;

108 (11) "Manufacturing facility" means a business establishment
109 classified under sector 31, 32 or 33 of the North American Industrial
110 Classification System;

111 (12) "Municipality" means a town, city, consolidated town and city
112 or consolidated town and borough. For purposes of sections 2 to 6,
113 inclusive, of this act, "municipality" includes a district, as defined in
114 section 7-324, a metropolitan district, as defined in section 7-333, and
115 any political subdivision of the state having the power to levy taxes
116 and to issue bonds, notes or other obligations;

117 (13) "PCB regulations" means the polychlorinated biphenyls
118 manufacturing, processing, distribution in commerce and use
119 prohibitions found at 40 CFR Part 761;

120 (14) "Person" means any individual, firm, partnership, association,
121 syndicate, company, trust, corporation, limited liability company,
122 municipality, economic development agency, agency or political or
123 administrative subdivision of the state or any other legal entity;

124 (15) "Real property" means land, buildings and other structures and
125 improvements thereto, subterranean or subsurface rights, any and all
126 easements, air rights and franchises of any kind or nature;

127 (16) "Regulated substance" has the same meaning as provided in
128 section 22a-134g;

129 (17) "Release" means any discharge, spillage, uncontrolled loss,
130 seepage, filtration, leakage, injection, escape, dumping, pumping,
131 pouring, emitting, emptying or disposal of a substance;

132 (18) "Remediation standards" has the same meaning as provided in
133 section 22a-134, as amended by this act;

134 (19) "State" means the state of Connecticut;

135 (20) "UST regulations" means the regulations adopted pursuant to
136 subsection (d) of section 22a-449; [and]

137 (21) "Verification" has the same meaning as provided in section 22a-
138 134, as amended by this act; and

139 (22) "Connecticut brownfield land bank" means a Connecticut
140 nonstock corporation, certified by the Commissioner of Economic and
141 Community Development pursuant to section 2 of this act, established
142 for the purposes of (A) acquiring, retaining, remediating and selling
143 brownfields in the state for the benefit of municipalities, (B) educating
144 government officials, community leaders, economic development
145 agencies and nonprofit organizations on best practices for
146 redeveloping brownfields, and (C) engaging in all other activities in
147 accordance with sections 2 to 6, inclusive, of this act.

148 Sec. 2. (NEW) (*Effective July 1, 2016*) (a) Any Connecticut nonstock
149 corporation may apply to the Commissioner of Economic and
150 Community Development for certification as a Connecticut brownfield
151 land bank by submitting to the commissioner, on forms provided by
152 the commissioner, an application containing such information as the
153 commissioner deems necessary, including, but not limited to:

154 (1) The certificate of incorporation and bylaws of the applicant;

155 (2) A list of the current officers and directors of the applicant;

156 (3) A proposed land banking agreement with one or more
157 municipalities;

158 (4) Information concerning the financial and technical capability of
159 the applicant to fulfill the purposes of a Connecticut brownfield land

160 bank;

161 (5) A letter of support from at least two municipalities; and

162 (6) A proposed business plan for such land bank.

163 (b) The commissioner may approve or reject any application
164 properly submitted in accordance with this section. In reviewing an
165 application and determining whether to certify an applicant as a
166 Connecticut brownfield land bank, the commissioner shall consider the
167 following criteria:

168 (1) The financial and technical capabilities of the applicant to fulfill
169 the purposes of a Connecticut brownfield land bank;

170 (2) The relative economic condition of the municipalities the
171 applicant intends to serve;

172 (3) The level of support for such applicant from municipalities;

173 (4) The quality of the applicant's business plan; and

174 (5) Such other criteria consistent with the purpose of sections 2 to 6,
175 inclusive, of this act as the commissioner may establish.

176 (c) If the commissioner approves an application for certification as a
177 Connecticut brownfield land bank, the commissioner shall issue a
178 Connecticut brownfield land bank certificate to the successful
179 applicant and such applicant shall be granted the rights, privileges and
180 immunities provided under sections 2 to 6, inclusive, of this act.

181 (d) Not later than January thirty-first, annually, each Connecticut
182 brownfield land bank shall report to the commissioner on its activities
183 for the preceding year and provide the commissioner any such
184 information as the commissioner deems necessary, including, but not
185 limited to: (1) An updated list of its current officers and directors; (2) an
186 updated business plan; (3) a complete operating and financial

187 statement; and (4) a copy of any land banking agreements entered into
188 during the preceding year.

189 (e) The commissioner shall review the annual report of each
190 Connecticut brownfield land bank and determine whether each land
191 bank has complied with the provisions of subsection (d) of this section.
192 If the commissioner determines that a Connecticut brownfield land
193 bank is not in compliance with such provisions, the commissioner shall
194 notify the officers of such land bank, in writing, that the land bank
195 may be subject to decertification after the one-hundred-twentieth day
196 after the date of mailing the notice unless such noncompliance is
197 waived by the commissioner or such land bank submits an annual
198 report that the commissioner determines is compliant with the
199 provisions of subsection (d) of this section.

200 (f) A Connecticut brownfield land bank that the commissioner has
201 decertified shall not enter into any additional land banking agreement.

202 Sec. 3. (NEW) (*Effective July 1, 2016*) (a) The powers of a Connecticut
203 brownfield land bank shall be vested in and exercised by a board of
204 directors, which shall consist of not less than five and not more than
205 eleven members, each with knowledge and expertise in matters related
206 to the purposes and activities of a Connecticut brownfield land bank.
207 The board shall elect from its members a chairperson and such other
208 officers as it deems necessary and shall adopt such bylaws and
209 procedures it deems necessary to carry out its functions. The board
210 may establish committees and subcommittees as necessary to conduct
211 its business.

212 (b) Notwithstanding any provision of the general statutes, any
213 public officer shall be eligible to serve as a member of the board of
214 directors and the acceptance of the appointment shall neither
215 terminate nor impair such public office. For purposes of this section,
216 "public officer" means a person who is elected or appointed to any
217 state or municipal office. Any state or municipal employee shall be

218 eligible to serve as a board member.

219 (c) Members of the board of directors shall have the power to
220 organize and reorganize the executive, administrative, clerical and
221 other departments of the Connecticut brownfield land bank, and to fix
222 the duties, powers and compensation of all employees, agents and
223 consultants of the Connecticut brownfield land bank.

224 (d) Board members shall serve without compensation, provided
225 each board member shall be entitled to reimbursement for such
226 member's actual and necessary expenses incurred during the
227 performance of such member's official duties.

228 (e) Members of the board of directors shall not be liable personally
229 on the loans or other obligations or environmental liabilities of the
230 Connecticut brownfield land bank, and the rights of creditors shall be
231 solely against such land bank.

232 Sec. 4. (NEW) (*Effective July 1, 2016*) (a) The purposes of a
233 Connecticut brownfield land bank shall be to (1) acquire, retain,
234 remediate and sell brownfields in the state on behalf of municipalities
235 pursuant to land banking agreements with such municipalities, (2)
236 educate government officials, community leaders, economic
237 development agencies and nonprofit organizations on best practices
238 for redeveloping brownfields, and (3) engage in all other activities in
239 accordance with sections 2 to 6, inclusive, of this act. In addition to
240 those powers, rights, privileges and immunities granted under chapter
241 602 of the general statutes, a Connecticut brownfield land bank is
242 authorized and empowered to do the following in furtherance of its
243 purposes:

244 (A) Enter into land banking agreements with municipalities for the
245 acquisition, retention, remediation and sale of real property within
246 such municipalities on behalf of such municipalities.

247 (B) Enter into contracts and agreements with municipalities for

248 staffing services to be provided to the Connecticut brownfield land
249 bank by such municipalities, or agencies or departments thereof, or for
250 a Connecticut brownfield land bank to provide such staffing services
251 to such municipalities, or agencies or departments thereof.

252 (C) Obtain grant funds or borrow from private lenders,
253 municipalities, the state or the federal government, as may be
254 necessary, for the operation of the Connecticut brownfield land bank.

255 (D) Procure insurance or guarantees from the state or federal
256 government of the payments of any debts, or parts thereof, incurred by
257 the Connecticut brownfield land bank, and to pay premiums in
258 connection therewith.

259 (E) Do all other things necessary or convenient to achieve the
260 purposes of the Connecticut brownfield land bank and comply with
261 any law relating to the purposes and responsibilities of such land
262 bank.

263 (F) Acquire real property by purchase contracts, lease purchase
264 agreements, installment sales contracts, land contracts and foreclosure
265 of municipal tax liens. A Connecticut brownfield land bank may accept
266 transfers of real property from municipalities upon such terms and
267 conditions as agreed to by the brownfield land bank and the
268 municipality. Notwithstanding any other state law or regulation or
269 municipal charter provision or ordinance to the contrary, any
270 municipality may transfer and convey to the Connecticut brownfield
271 land bank real property and interests in real property located in the
272 municipality on such terms and conditions and according to such
273 procedures as determined by the municipality.

274 (b) A Connecticut brownfield land bank shall neither possess nor
275 exercise the power of eminent domain.

276 Sec. 5. (NEW) (*Effective July 1, 2016*) (a) The real property and
277 operations of a Connecticut brownfield land bank shall be at all times

278 exempt from taxation of every kind by the state and by the
279 municipalities and other political subdivisions in the state.

280 (b) The exercise of the powers granted by sections 2 to 6, inclusive,
281 of this act, shall be in all respects for the benefit of the people of the
282 state, for the increase of their commerce, welfare and prosperity, and
283 as the exercise of such powers shall constitute the performance of an
284 essential public function, a Connecticut brownfield land bank shall not
285 be required to pay any taxes or assessments upon or in respect of any
286 revenues or property received, acquired, transferred or used by such
287 Connecticut brownfield land bank, or upon or in respect of the income
288 from such revenues or property. Any notes or other obligations issued
289 under the provisions of this section, their transfer and the income
290 therefrom, including any profit made on the sale of such notes or other
291 obligations, shall at all times be free from taxation of every kind by the
292 state and by the municipalities and other political subdivisions in the
293 state.

294 Sec. 6. (NEW) (*Effective July 1, 2016*) (a) A Connecticut brownfield
295 land bank shall hold in its own name all real property acquired by
296 such land bank irrespective of the identity of the transferor of such
297 property.

298 (b) A Connecticut brownfield land bank shall acquire only
299 brownfield sites and other real property, located adjacent or in close
300 proximity to brownfield sites to be acquired, that is advantageous to
301 the redevelopment of such brownfield sites.

302 (c) A Connecticut brownfield land bank shall maintain and make
303 available for public review and inspection an inventory of all real
304 property held by such land bank.

305 (d) A Connecticut brownfield land bank shall determine and set
306 forth in policies and procedures the general terms and conditions for
307 consideration to be received by such land bank for the transfer of real
308 property and interests in real property, which consideration may take

309 the form of monetary payments and secured financial obligations,
310 covenants and conditions related to the present and future use of such
311 real property, contractual commitments of the transferee, and such
312 other forms of consideration as determined by the board of directors to
313 be in the best interest of such land bank.

314 (e) A Connecticut brownfield land bank may convey, exchange, sell,
315 transfer, lease as lessee, grant, release and demise, pledge and
316 hypothecate any and all interests in, upon or to real property of the
317 brownfield land bank, provided such land bank may only convey,
318 exchange, transfer or sell real property with the approval of the
319 municipality in which such real property is located pursuant to the
320 terms of a land banking agreement entered into with such
321 municipality.

322 Sec. 7. Subsection (a) of section 12-81r of the general statutes is
323 repealed and the following is substituted in lieu thereof (*Effective July*
324 *1, 2016*):

325 (a) Any municipality may (1) enter into an agreement with the
326 owner of any real property to abate the property tax due as of the date
327 of the agreement for a period not to exceed seven years if the property
328 has been subject to a spill, as defined in section 22a-452c, and the
329 owner agrees to conduct any environmental site assessment,
330 demolition and remediation of the spill necessary to redevelop the
331 property. Any such tax abatement shall only be for the period of
332 remediation and redevelopment and shall be contingent upon the
333 continuation and completion of the remediation and redevelopment
334 process with respect to the purposes specified in the agreement. The
335 abatement shall cease upon the sale or transfer of the property for any
336 other purpose unless the municipality consents to its continuation. The
337 municipality may also establish a recapture provision in the event of
338 sale provided such recapture shall not exceed the original amount of
339 taxes abated and may not go back further than the date of the
340 agreement; (2) forgive all or a portion of the principal balance and

341 interest due on delinquent property taxes for the benefit of any
342 prospective purchaser who has obtained an environmental
343 investigation or remediation plan approved by the Commissioner of
344 Energy and Environmental Protection or a licensed environmental
345 professional under section 22a-133w, 22a-133x or 22a-133y and
346 completes such remediation plan for an establishment, as defined in
347 section 22a-134, as amended by this act, deemed by the municipality to
348 be abandoned or a brownfield, as defined in section 32-760 as
349 amended by this act; [or] (3) enter into an agreement with the owner of
350 any real property to fix the assessment of the property as of the last
351 assessment date prior to commencement of remediation activities for a
352 period not to exceed seven years, provided the property has been the
353 subject of a remediation approved by the Commissioner of Energy and
354 Environmental Protection or verified by a licensed environmental
355 professional pursuant to section 22a-133w, 22a-133x, 22a-133y or 22a-
356 134, as amended by this act; or (4) forgive all or a portion of the
357 principal balance and interest due on delinquent property taxes for the
358 benefit of any Connecticut brownfield land bank, as defined in section
359 32-760, as amended by this act, that has acquired or will acquire any
360 real property within the municipality.

361 Sec. 8. Section 22a-133dd of the general statutes is repealed and the
362 following is substituted in lieu thereof (*Effective July 1, 2016*):

363 (a) Any municipality or any licensed environmental professional
364 employed or retained by a municipality may enter, without liability,
365 upon any property within such municipality for the purpose of
366 performing an environmental site assessment or investigation on
367 behalf of the municipality if: (1) The owner of such property cannot be
368 located; (2) such property is encumbered by a lien for taxes due such
369 municipality; (3) upon a filing of a notice of eminent domain; (4) the
370 municipality's legislative body finds that such investigation is in the
371 public interest to determine if the property is underutilized or should
372 be included in any undertaking of development, redevelopment or
373 remediation pursuant to this chapter or chapter 130, 132 or 581; or (5)

374 any official of the municipality reasonably finds such investigation
375 necessary to determine if such property presents a risk to the safety,
376 health or welfare of the public or a risk to the environment. A
377 Connecticut brownfield land bank or any licensed environmental
378 professional employed or retained by such Connecticut brownfield
379 land bank may enter, without liability, upon any property under the
380 control of such Connecticut brownfield land bank for the purpose of
381 performing an environmental site assessment or investigation on
382 behalf of such Connecticut brownfield land bank if such
383 environmental site assessment or investigation is required under a
384 land banking agreement between a municipality and such Connecticut
385 brownfield land bank. The municipality or, if applicable, the
386 Connecticut brownfield land bank shall give at least forty-five days'
387 notice of such entry before the first such entry by certified mail to the
388 property owner's last known address of record.

389 (b) A municipality or Connecticut brownfield land bank accessing
390 or entering a property to perform an investigation pursuant to this
391 section shall not be liable for preexisting conditions pursuant to section
392 22a-432, 22a-433, 22a-451 or 22a-452, or to the property owner or any
393 third party, provided the municipality or Connecticut brownfield land
394 bank (1) did not establish, cause or contribute to the discharge,
395 spillage, uncontrolled loss, seepage or filtration of such hazardous
396 substance, material, waste or pollution; (2) does not negligently or
397 recklessly exacerbate the conditions; and (3) complies with reporting of
398 significant environmental hazard requirements pursuant to section
399 22a-6u. To the extent that any conditions are negligently or recklessly
400 exacerbated, the municipality or Connecticut brownfield land bank
401 shall only be responsible for responding to contamination exacerbated
402 by its activities.

403 (c) The owner of the property may object to such access and entry
404 by the municipality or Connecticut brownfield land bank by filing an
405 action in the Superior Court not later than thirty days after receipt of
406 the notice provided pursuant to subsection (a) of this section, provided

407 any objection be limited to the issue of whether access is necessary and
408 only upon proof by the owner that the owner has (1) completed or is in
409 the process of completing in a timely manner a comprehensive
410 environmental site assessment or investigation report; (2) provided the
411 party seeking access with a copy of the assessment or report or will do
412 so not later than thirty days after the delivery of such assessment or
413 report to the owner; and (3) paid any delinquent property taxes
414 assessed against the property for which access is being sought.

415 (d) For purposes of this section, (1) "municipality" includes any (A)
416 municipality, (B) municipal economic development agency or entity
417 created or operating under chapter 130 or 132, (C) nonprofit economic
418 development corporation formed to promote the common good,
419 general welfare and economic development of a municipality that is
420 funded, either directly or through in-kind services, in part by a
421 municipality, or (D) nonstock corporation or limited liability company
422 established and controlled by a municipality, municipal economic
423 development agency or entity created or operating under chapter 130
424 or 132; and (2) "Connecticut brownfield land bank" has the same
425 meaning as provided in section 32-760, as amended by this act.

426 Sec. 9. Subsection (a) of section 22a-133ii of the general statutes is
427 repealed and the following is substituted in lieu thereof (*Effective July*
428 *1, 2016*):

429 (a) For the purposes of this section:

430 (1) "Applicant" means any (A) municipality, (B) economic
431 development agency or entity established pursuant to chapter 130 or
432 132, (C) nonprofit economic development corporation formed to
433 promote the common good, general welfare and economic
434 development of a municipality and that is funded, either directly or
435 through in-kind services, in part by a municipality, [or] (D) [a]
436 nonstock corporation or limited liability company controlled or
437 established by a municipality, municipal economic development

438 agency or entity created or operating pursuant to chapter 130 or 132, or
439 (E) Connecticut brownfield land bank, as defined in section 32-760, as
440 amended by this act;

441 (2) "Municipality" has the same meaning as provided in section 8-
442 187;

443 (3) "Brownfield" has the same meaning as provided in section 32-
444 760, as amended by this act;

445 (4) "Commissioner" means the Commissioner of Energy and
446 Environmental Protection;

447 (5) "Regulated substance" means any oil or petroleum or chemical
448 liquid or solid, liquid or gaseous product or hazardous waste; and

449 (6) "Person" has the same meaning as provided in section 22a-2.

450 Sec. 10. Subdivision (1) of section 22a-134 of the general statutes is
451 repealed and the following is substituted in lieu thereof (*Effective July*
452 *1, 2016*):

453 (1) "Transfer of establishment" means any transaction or proceeding
454 through which an establishment undergoes a change in ownership, but
455 does not mean:

456 (A) Conveyance or extinguishment of an easement;

457 (B) Conveyance of an establishment through a foreclosure, as
458 defined in subsection (b) of section 22a-452f, foreclosure of a municipal
459 tax lien or through a tax warrant sale pursuant to section 12-157, an
460 exercise of eminent domain by a municipality or pursuant to section 8-
461 128, 8-169e or 8-193 or by condemnation pursuant to section 32-224 or
462 purchase pursuant to a resolution by the legislative body of a
463 municipality authorizing the acquisition through eminent domain for
464 establishments that also meet the definition of a brownfield, as defined
465 in section 32-760, as amended by this act, or a subsequent transfer by

466 such municipality that has foreclosed on the property, foreclosed
467 municipal tax liens or that has acquired title to the property through
468 section 12-157, or is within the pilot program established in subsection
469 (c) of section 32-9cc of the general statutes, revision of 1958, revised to
470 January 1, 2013, or the remedial action and redevelopment municipal
471 grant program established in section 32-763, as amended by this act, or
472 has acquired such property through the exercise of eminent domain by
473 a municipality or pursuant to section 8-128, 8-169e or 8-193 or by
474 condemnation pursuant to section 32-224 or a resolution adopted in
475 accordance with this subparagraph, provided (i) the party acquiring
476 the property from the municipality did not establish, create or
477 contribute to the contamination at the establishment and is not
478 affiliated with any person who established, created or contributed to
479 such contamination or with any person who is or was an owner or
480 certifying party for the establishment, and (ii) on or before the date the
481 party acquires the property from the municipality, such party or
482 municipality enters and subsequently remains in the voluntary
483 remediation program administered by the commissioner pursuant to
484 section 22a-133x and remains in compliance with schedules and
485 approvals issued by the commissioner. For purposes of this
486 subparagraph, subsequent transfer by a municipality includes any
487 transfer to, from or between a municipality, municipal economic
488 development agency or entity created or operating under chapter 130
489 or 132, a nonprofit economic development corporation formed to
490 promote the common good, general welfare and economic
491 development of a municipality that is funded, either directly or
492 through in-kind services, in part by a municipality, [or] a nonstock
493 corporation or limited liability company controlled or established by a
494 municipality, municipal economic development agency or entity
495 created or operating under chapter 130 or 132, or a Connecticut
496 brownfield land bank;

497 (C) Conveyance of a deed in lieu of foreclosure to a lender, as
498 defined in and that qualifies for the secured lender exemption

499 pursuant to subsection (b) of section 22a-452f;

500 (D) Conveyance of a security interest, as defined in subdivision (7)
501 of subsection (b) of section 22a-452f;

502 (E) Termination of a lease and conveyance, assignment or execution
503 of a lease for a period less than ninety-nine years including
504 conveyance, assignment or execution of a lease with options or similar
505 terms that will extend the period of the leasehold to ninety-nine years,
506 or from the commencement of the leasehold, ninety-nine years,
507 including conveyance, assignment or execution of a lease with options
508 or similar terms that will extend the period of the leasehold to ninety-
509 nine years, or from the commencement of the leasehold;

510 (F) Any change in ownership approved by the Probate Court;

511 (G) Devolution of title to a surviving joint tenant, or to a trustee,
512 executor or administrator under the terms of a testamentary trust or
513 will, or by intestate succession;

514 (H) Corporate reorganization not substantially affecting the
515 ownership of the establishment;

516 (I) The issuance of stock or other securities of an entity which owns
517 or operates an establishment;

518 (J) The transfer of stock, securities or other ownership interests
519 representing less than forty per cent of the ownership of the entity that
520 owns or operates the establishment;

521 (K) Any conveyance of an interest in an establishment where the
522 transferor is the sibling, spouse, child, parent, grandparent, child of a
523 sibling or sibling of a parent of the transferee;

524 (L) Conveyance of an interest in an establishment to a trustee of an
525 inter vivos trust created by the transferor solely for the benefit of one
526 or more siblings, spouses, children, parents, grandchildren, children of

527 a sibling or siblings of a parent of the transferor;

528 (M) Any conveyance of a portion of a parcel upon which portion no
529 establishment is or has been located and upon which there has not
530 occurred a discharge, spillage, uncontrolled loss, seepage or filtration
531 of hazardous waste, provided either the area of such portion is not
532 greater than fifty per cent of the area of such parcel or written notice of
533 such proposed conveyance and an environmental condition
534 assessment form for such parcel is provided to the commissioner sixty
535 days prior to such conveyance;

536 (N) Conveyance of a service station, as defined in subdivision (5) of
537 this section;

538 (O) Any conveyance of an establishment which, prior to July 1, 1997,
539 had been developed solely for residential use and such use has not
540 changed;

541 (P) Any conveyance of an establishment to any entity created or
542 operating under chapter 130 or 132, or to an urban rehabilitation
543 agency, as defined in section 8-292, or to a municipality under section
544 32-224, or to Connecticut Innovations, Incorporated or any subsidiary
545 of the corporation;

546 (Q) Any conveyance of a parcel in connection with the acquisition of
547 properties to effectuate the development of the overall project, as
548 defined in section 32-651;

549 (R) The conversion of a general or limited partnership to a limited
550 liability company;

551 (S) The transfer of general partnership property held in the names of
552 all of its general partners to a general partnership which includes as
553 general partners immediately after the transfer all of the same persons
554 as were general partners immediately prior to the transfer;

555 (T) The transfer of general partnership property held in the names

556 of all of its general partners to a limited liability company which
557 includes as members immediately after the transfer all of the same
558 persons as were general partners immediately prior to the transfer;

559 (U) Acquisition of an establishment by any governmental or quasi-
560 governmental condemning authority;

561 (V) Conveyance of any real property or business operation that
562 would qualify as an establishment solely as a result of (i) the
563 generation of more than one hundred kilograms of universal waste in
564 a calendar month, (ii) the storage, handling or transportation of
565 universal waste generated at a different location, or (iii) activities
566 undertaken at a universal waste transfer facility, provided any such
567 real property or business operation does not otherwise qualify as an
568 establishment; there has been no discharge, spillage, uncontrolled loss,
569 seepage or filtration of a universal waste or a constituent of universal
570 waste that is a hazardous substance at or from such real property or
571 business operation; and universal waste is not also recycled, treated,
572 except for treatment of a universal waste pursuant to 40 CFR
573 273.13(a)(2) or (c)(2) or 40 CFR 273.33 (a)(2) or (c)(2), or disposed of at
574 such real property or business operation;

575 (W) Conveyance of a unit in a residential common interest
576 community in accordance with section 22a-134i;

577 (X) Acquisition of an establishment that is in the abandoned
578 brownfield cleanup program established pursuant to section 32-768, as
579 amended by this act, and all subsequent transfers of the establishment,
580 provided the establishment is undergoing remediation or is
581 remediated in accordance with subsection (f) of section 32-768;

582 (Y) Any transfer of title from a bankruptcy court or a municipality
583 to a nonprofit organization;

584 (Z) Acquisition of an establishment that is in the brownfield
585 remediation and revitalization program and all subsequent transfers of

586 the establishment, provided the establishment is in compliance with
587 the brownfield investigation plan and remediation schedule, the
588 commissioner has issued a no audit letter or successful audit closure
589 letter in response to a verification or interim verification submitted
590 regarding the remediation of such establishment under the brownfield
591 remediation and revitalization program, or a one-hundred-eighty-day
592 period has expired since a verification or interim verification
593 submitted regarding the remediation of such establishment under the
594 brownfield remediation and revitalization program without an audit
595 decision from the Commissioner of Energy and Environmental
596 Protection;

597 (AA) Conveyance of an establishment in connection with the
598 acquisition of properties to effectuate the development of a project
599 certified and approved pursuant to section 32-9v, provided any such
600 property is investigated and remediated in accordance with section
601 22a-133y; [or]

602 (BB) Conveyance from the Department of Transportation to the
603 Connecticut Airport Authority of any properties comprising (i)
604 Bradley International Airport and all related improvements and
605 facilities now in existence and as hereafter acquired, added, extended,
606 improved and equipped, including any property or facilities
607 purchased with funds of, or revenues derived from, Bradley
608 International Airport, and any other property or facilities allocated by
609 the state, the Connecticut Airport Authority or otherwise to Bradley
610 International Airport, (ii) the state-owned and operated general
611 aviation airports, including Danielson Airport, Groton/New London
612 Airport, Hartford Brainard Airport, Waterbury-Oxford Airport and
613 Windham Airport and any such other airport as may be owned,
614 operated or managed by the Connecticut Airport Authority and
615 designated as general aviation airports, (iii) any other airport as may
616 be owned, operated or managed by the Connecticut Airport Authority,
617 and (iv) any airport site or any part thereof, including, but not limited
618 to, any restricted landing areas and any air navigation facilities; or

619 (CC) Conveyance of an establishment to a Connecticut brownfield
620 land bank and all subsequent transfers of such establishment,
621 provided (i) such establishment was entered into a remediation or
622 liability relief program under section 22a-133x, 22a-133y, 32-768, as
623 amended by this act, or 32-769, as amended by this act, and the
624 conveyor or transferor of such establishment is in compliance with
625 such program at the time of transfer of such establishment, and (ii)
626 none of the activities described in subdivision (3) of section 22a-134
627 were conducted at such establishment after the date such
628 establishment was entered into such remediation or liability relief
629 program.

630 Sec. 11. Section 22a-134 of the general statutes is amended by adding
631 subdivision (29) as follows (*Effective July 1, 2016*):

632 (NEW) (29) "Connecticut brownfield land bank" has the same
633 meaning as provided in section 32-760, as amended by this act.

634 Sec. 12. Subsection (a) of section 32-763 of the 2016 supplement to
635 the general statutes is repealed and the following is substituted in lieu
636 thereof (*Effective July 1, 2016*):

637 (a) There is established a remedial action and redevelopment
638 municipal grant program to be administered by the Department of
639 Economic and Community Development for the purpose of providing
640 grants to municipalities, Connecticut brownfield land banks and
641 economic development agencies for the eligible costs of brownfield
642 remediation projects, brownfield assessment projects and reasonable
643 administrative expenses not to exceed five per cent of any grant
644 awarded. A grant awarded under this section shall not exceed four
645 million dollars.

646 Sec. 13. Subsection (c) of section 32-768 of the general statutes is
647 repealed and the following is substituted in lieu thereof (*Effective July*
648 *1, 2016*):

649 (c) Notwithstanding the provisions of subsection (b) of this section,
650 a property owned by a municipality or a Connecticut brownfield land
651 bank shall not be subject to subdivision (6) of subsection (b) of this
652 section.

653 Sec. 14. Section 32-769 of the general statutes is repealed and the
654 following is substituted in lieu thereof (*Effective July 1, 2016*):

655 (a) The commissioner shall, within available appropriations,
656 establish a brownfield remediation and revitalization program to
657 provide certain liability protections to program participants. Not more
658 than thirty-two properties per year shall be accepted into the program.
659 Participation in the program shall be by accepted application pursuant
660 to this subsection or by approved nomination pursuant to subsection
661 (c) of this section. To be considered for acceptance, an applicant shall
662 submit to the commissioner, on a form prescribed by the
663 commissioner, a certification that: (1) The applicant meets the
664 definition of a bona fide prospective purchaser, innocent landowner or
665 contiguous property owner; (2) the property meets the definition of a
666 brownfield and has been subject to a release of a regulated substance
667 in an amount that is in excess of the remediation standards; (3) the
668 applicant did not establish, create or maintain a source of pollution to
669 the waters of the state for purposes of section 22a-432 and is not
670 responsible pursuant to any other provision of the general statutes for
671 any pollution or source of pollution on the property; (4) the applicant
672 is not affiliated with any person responsible for such pollution or
673 source of pollution through any direct or indirect familial relationship
674 or any contractual, corporate or financial relationship other than that
675 by which such purchaser's interest in such property is to be conveyed
676 or financed; and (5) the property is not (A) currently the subject of an
677 enforcement action, including any consent order issued by the
678 Department of Energy and Environmental Protection or the United
679 States Environmental Protection Agency under any current
680 Department of Energy and Environmental Protection or United States
681 Environmental Protection Agency program, (B) listed on the national

682 priorities list of hazardous waste disposal sites compiled by the United
683 States Environmental Protection Agency pursuant to 42 USC 9605, (C)
684 listed on the State of Connecticut Superfund Priority List, or (D)
685 subject to corrective action as may be required by the federal Resource
686 Conservation and Recovery Act of 1976, 42 USC 6901 et seq. The
687 commissioner may review such certifications to ensure accuracy, in
688 consultation with the Commissioner of Energy and Environmental
689 Protection, and applications will not be considered if such
690 certifications are found inaccurate.

691 (b) To ensure a geographic distribution and a diversity of projects
692 and broad access to the brownfield remediation and revitalization
693 program, the commissioner, in consultation with the Commissioner of
694 Energy and Environmental Protection, shall review all applications
695 received and determine admission of eligible properties into the
696 brownfield remediation and revitalization program taking into
697 consideration state-wide portfolio factors including: (1) Job creation
698 and retention; (2) sustainability; (3) readiness to proceed; (4)
699 geographic distribution of projects; (5) population of the municipality
700 where the property is located; (6) project size; (7) project complexity;
701 (8) duration and degree to which the property has been underused; (9)
702 projected increase to the municipal grand list; (10) consistency of the
703 property as remediated and developed with municipal or regional
704 planning objectives; (11) development plan's support for and
705 furtherance of principles of smart growth, as defined in section 1 of
706 public act 09-230, or transit-oriented development, as defined in
707 section 13b-79o; and (12) other factors as may be determined by the
708 commissioner. Admittance into the brownfield remediation and
709 revitalization program shall not indicate approval or award of funding
710 requested under any federal, state or municipal grant or loan program,
711 including, but not limited to, any state brownfield grant or loan
712 program.

713 (c) The commissioner shall accept nominations of properties for
714 participation in the program established pursuant to subsection (a) of

715 this section by [a municipality or an economic development agency,]
716 municipalities, Connecticut brownfield land banks and economic
717 development agencies where no bona fide prospective purchaser,
718 contiguous property owner or innocent landowner has applied for
719 participation in the program. For a property to be considered for
720 approval for nomination to the program established pursuant to this
721 section, a municipality, Connecticut brownfield land bank or economic
722 development agency shall submit to the commissioner, on a form
723 prescribed by the commissioner, a certification that the property meets
724 the eligibility requirements provided in subdivisions (2) and (5) of
725 subsection (a) of this section and any other relevant factors, including
726 state-wide portfolio factors provided in subsection (b) of this section,
727 as may be determined by the commissioner. After the commissioner
728 approves a property's nomination, any subsequent applicant shall
729 apply in accordance with subsections (a) and (f) of this section. In any
730 such application, the applicant shall demonstrate it satisfies the
731 eligibility requirements provided in subdivisions (1), (3) and (4) of
732 subsection (a) of this section and shall demonstrate satisfaction of
733 subdivisions (2) and (5) of subsection (a) of this section for the period
734 after the commissioner's acceptance of the municipality's, Connecticut
735 brownfield land bank's or economic development agency's nomination
736 of the property.

737 (d) (1) Properties otherwise eligible for the brownfield remediation
738 and revitalization program currently being investigated and
739 remediated in accordance with the state voluntary remediation
740 programs under sections 22a-133x and 22a-133y, the property transfer
741 program under section 22a-134, as amended by this act, and the
742 covenant not to sue programs under section 22a-133aa or 22a-133bb
743 shall not be excluded from eligibility in said program, provided the
744 other requirements set forth in this section are met.

745 (2) Properties otherwise eligible for the brownfield remediation and
746 revitalization program that have been subject to a release requiring
747 action pursuant to the PCB regulations or that have been subject to a

748 release requiring action pursuant to the UST regulations shall not be
749 deemed ineligible, but no provision of this section shall affect any
750 eligible party's obligation under such regulations to investigate or
751 remediate the extent of any such release.

752 (e) Inclusion of a property within the brownfield remediation and
753 revitalization program by the commissioner shall not limit any
754 person's ability to seek funding for such property under any federal,
755 state or municipal grant or loan program, including, but not limited to,
756 any state brownfield grant or loan program. Admittance into the
757 brownfield remediation and revitalization program shall not indicate
758 approval or award of funding requested under any federal, state or
759 municipal grant or loan program, including, but not limited to, any
760 state brownfield grant or loan program.

761 (f) Any applicant seeking a designation of eligibility for a person or
762 a property under the brownfield remediation and revitalization
763 program shall apply to the commissioner at such times and on such
764 forms as the commissioner may prescribe. The application shall
765 include, but not be limited to, (1) a title search, (2) the Phase I
766 Environmental Site Assessment conducted by or for the bona fide
767 prospective purchaser or the contiguous property owner, which shall
768 be prepared in accordance with prevailing standards and guidelines,
769 (3) a current property inspection, (4) documentation demonstrating
770 satisfaction of the eligibility criteria set forth in subsection (a) of this
771 section, (5) information about the project that relates to the state-wide
772 portfolio factors set forth in subsection (b) of this section, and (6) such
773 other information as the commissioner may request to determine
774 admission.

775 (g) Any applicant accepted into the brownfield remediation and
776 revitalization program by the commissioner shall pay the
777 Commissioner of Energy and Environmental Protection a fee equal to
778 five per cent of the assessed value of the land, as stated on the last-
779 completed grand list of the relevant town. The fee shall be paid in two

780 installments, each equal to fifty per cent of such fee, subject to potential
781 reductions as specified in subsection (h) of this section. The first
782 installment shall be due not later than one hundred eighty days after
783 the later of the date such applicant is notified that the application has
784 been accepted by the commissioner or the date that such applicant
785 takes title to the eligible property. The second installment shall be due
786 not later than four years after the acceptance date. Upon request by
787 such applicant, a municipality, a Connecticut brownfield land bank or
788 an economic development agency, the commissioner may, at the
789 commissioner's discretion, extend either or both of the installment due
790 dates. Such fee shall be deposited into the Special Contaminated
791 Property Remediation and Insurance Fund established pursuant to
792 section 22a-133t and shall be available for use by the Commissioner of
793 Energy and Environmental Protection pursuant to section 22a-133u.

794 (h) (1) The first installment of the fee in subsection (g) of this section
795 shall be reduced by ten per cent for any eligible party that completes
796 and submits to the Commissioner of Energy and Environmental
797 Protection documentation, approved in writing by a licensed
798 environmental professional and on a form prescribed by said
799 commissioner, that the investigation of the property has been
800 completed in accordance with prevailing standards and guidelines
801 within one hundred eighty days after the date the application is
802 accepted by the commissioner.

803 (2) The second installment of the fee in subsection (g) of this section
804 shall be eliminated for any eligible party that submits the remedial
805 action report and verification or interim verification to the
806 Commissioner of Energy and Environmental Protection within four
807 years after the date the application is accepted by the commissioner. In
808 the event an eligible party submits a request for the Commissioner of
809 Energy and Environmental Protection's approval, where such approval
810 is required pursuant to the remediation standard and where said
811 commissioner issues a decision on such request beyond sixty days
812 after submittal, such four-year period shall be extended by the number

813 of days equal to the number of days between the sixtieth day and the
814 date a decision is issued by said commissioner, but not including the
815 number of days that a request by said commissioner for supplemental
816 information remains pending with the eligible party.

817 (3) The second installment of the fee in subsection (g) of this section
818 shall be reduced by, or any eligible party shall receive a refund in the
819 amount equal to, twice the reasonable environmental service costs of
820 such investigation, as determined by the Commissioner of Energy and
821 Environmental Protection, for any eligible party that completes and
822 submits to the Commissioner of Energy and Environmental Protection
823 documentation, approved in writing by a licensed environmental
824 professional and on a form that may be prescribed by said
825 commissioner, that the investigation of the nature and extent of any
826 contamination that has migrated from the property has been
827 completed in accordance with prevailing standards and guidelines.
828 Such refund shall not exceed the amount of the second installment of
829 the fee in subsection (g) of this section.

830 (4) [No] Notwithstanding the provisions of this subsection and
831 subsection (g) of this section, no municipality, Connecticut brownfield
832 land bank or economic development agency seeking designation of
833 eligibility shall be required to pay a fee, provided, upon transfer of the
834 eligible property from the municipality, Connecticut brownfield land
835 bank or economic development agency to an eligible person, that
836 eligible person shall pay to the Commissioner of Energy and
837 Environmental Protection the fee in subsection (g) of this section in
838 accordance with the applicable requirements in this subsection.

839 (5) A municipality, or a Connecticut brownfield land bank or
840 economic development agency, may submit a fee waiver request to the
841 commissioner to waive a portion or the entire fee for an eligible
842 property located within [that] such municipality. The commissioner, at
843 his or her discretion, shall consider the following factors in
844 determining whether to approve a fee waiver or reduction: (A)

845 Location of the brownfield within a distressed municipality, as defined
846 in section 32-9p; (B) demonstration by the municipality, Connecticut
847 brownfield land bank or economic development agency that the
848 project is of significant economic impact; (C) demonstration by the
849 municipality, Connecticut brownfield land bank or economic
850 development agency that the project has a significant community
851 benefit to the municipality; (D) demonstration that the eligible party is
852 a governmental or nonprofit entity; and (E) demonstration that the fee
853 required will have a detrimental effect on the overall success of the
854 project.

855 (i) An applicant whose application has been accepted into the
856 brownfield remediation and revitalization program shall not be liable
857 to the state or any person for the release of any regulated substance at
858 or from the eligible property, except and only to the extent that such
859 applicant (A) caused or contributed to the release of a regulated
860 substance that is subject to remediation or exacerbated such condition,
861 or (B) the Commissioner of Energy and Environmental Protection
862 determines the existence of any of the conditions set forth in
863 subdivision (4) of subsection (m) of this section.

864 (j) (1) An applicant whose application to the brownfield remediation
865 and revitalization program has been accepted by the commissioner (A)
866 shall investigate the release or threatened release of any regulated
867 substance within the boundaries of the property in accordance with
868 prevailing standards and guidelines and remediate such release or
869 threatened release within the boundaries of such property in
870 accordance with the brownfield investigation plan and remediation
871 schedule and this section, and (B) shall not be required to characterize,
872 abate and remediate the release of a regulated substance beyond the
873 boundary of the eligible property, except for releases caused or
874 contributed to by such applicant.

875 (2) Not later than one hundred eighty days after the first installment
876 due date, including any extension thereof by the commissioner, of the

877 fee required pursuant to subsection (g) of this section, the eligible party
878 shall submit to the commissioner and the Commissioner of Energy and
879 Environmental Protection a brownfield investigation plan and
880 remediation schedule that is signed and stamped by a licensed
881 environmental professional. Unless otherwise approved in writing by
882 the Commissioner of Energy and Environmental Protection, such
883 brownfield investigation plan and remediation schedule shall provide
884 that (A) the investigation shall be completed not later than two years
885 after the first installment due date, including any extension thereof by
886 the commissioner, of the fee required pursuant to subsection (g) of this
887 section, (B) remediation shall be initiated not later than three years
888 from the first installment due date, including any extension thereof by
889 the commissioner, of the fee required pursuant to subsection (g) of this
890 section, and (C) remediation shall be completed sufficiently to support
891 either a verification or interim verification not later than eight years
892 after the first installment due date, including any extension thereof by
893 the commissioner, of the fee required pursuant to subsection (g) of this
894 section. The schedule shall also include a schedule for providing public
895 notice of the remediation prior to the initiation of such remediation in
896 accordance with subdivision (1) of subsection (j) of this section. Not
897 later than two years after the first installment due date, including any
898 extension thereof by the commissioner, of the fee required pursuant to
899 subsection (g) of this section, unless the Commissioner of Energy and
900 Environmental Protection has specified a later day, in writing, the
901 eligible party shall submit to the Commissioner of Energy and
902 Environmental Protection documentation, approved in writing by a
903 licensed environmental professional and in a form prescribed by the
904 Commissioner of Energy and Environmental Protection, that the
905 investigation of the property has been completed in accordance with
906 prevailing standards and guidelines. Not later than three years after
907 the first installment due date, including any extension thereof by the
908 commissioner, of the fee required pursuant to subsection (g) of this
909 section, unless the Commissioner of Energy and Environmental
910 Protection has specified a later day, in writing, the eligible party shall

911 notify the Commissioner of Energy and Environmental Protection and
912 the commissioner in a form prescribed by the Commissioner of Energy
913 and Environmental Protection that the remediation has been initiated,
914 and shall submit to the Commissioner of Energy and Environmental
915 Protection a remedial action plan, approved in writing by a licensed
916 environmental professional in a form prescribed by the Commissioner
917 of Energy and Environmental Protection. Not later than eight years
918 after the first installment due date, including any extension thereof by
919 the commissioner, of the fee required pursuant to subsection (g) of this
920 section, unless the Commissioner of Energy and Environmental
921 Protection has specified a later day, in writing, the eligible party shall
922 complete remediation of the property and submit the remedial action
923 report and verification or interim verification to the Commissioner of
924 Energy and Environmental Protection and the commissioner. The
925 Commissioner of Energy and Environmental Protection shall grant a
926 reasonable extension if the eligible party demonstrates to the
927 satisfaction of the Commissioner of Energy and Environmental
928 Protection that: (i) Such eligible party has made reasonable progress
929 toward investigation and remediation of the eligible property; and (ii)
930 despite best efforts, circumstances beyond the control of the eligible
931 party have significantly delayed the remediation of the eligible
932 property.

933 (3) An eligible party who submits an interim verification for an
934 eligible property, and any subsequent owner of such eligible property,
935 shall, until the remediation standards for groundwater are achieved,
936 (A) operate and maintain the long-term remedy for groundwater in
937 accordance with the remedial action plan, the interim verification and
938 any approvals issued by the Commissioner of Energy and
939 Environmental Protection, (B) prevent exposure to any groundwater
940 plume containing a regulated substance in excess of the remediation
941 standards on the property, (C) take all reasonable action to contain any
942 groundwater plume on the property, and (D) submit annual status
943 reports to the Commissioner of Energy and Environmental Protection

944 and the commissioner.

945 (4) Before commencement of remedial action pursuant to the plan
946 and schedule, the eligible party shall: (A) Publish notice of the
947 remedial action in a newspaper having a substantial circulation in the
948 town where the property is located, (B) notify the director of health of
949 the municipality where the property is located, and (C) either (i) erect
950 and maintain for at least thirty days in a legible condition a sign not
951 less than six feet by four feet on the property, which shall be clearly
952 visible from the public highway and shall include the words
953 "ENVIRONMENTAL CLEAN-UP IN PROGRESS AT THIS SITE. FOR
954 FURTHER INFORMATION CONTACT:" and include a telephone
955 number for an office from which any interested person may obtain
956 additional information about the remedial action, or (ii) mail notice of
957 the remedial action to each owner of record of property which abuts
958 such property, at the address on the last-completed grand list of the
959 relevant town. Public comments shall be directed to the eligible party
960 for a thirty-day period starting with the last provided public notice
961 provision and such eligible party shall provide all comments and any
962 responses to the Commissioner of Energy and Environmental
963 Protection prior to commencing remedial action.

964 (5) The remedial action shall be conducted under the supervision of
965 a licensed environmental professional and the remedial action report
966 shall be submitted to the commissioner and the Commissioner of
967 Energy and Environmental Protection signed and stamped by a
968 licensed environmental professional. In such report, the licensed
969 environmental professional shall include a detailed description of the
970 remedial actions taken and issue a verification or interim verification,
971 in which he or she shall render an opinion, in accordance with the
972 standard of care provided in subsection (c) of section 22a-133w, that
973 the action taken to contain, remove or mitigate the release of regulated
974 substances within the boundaries of such property is in accordance
975 with the remediation standards.

976 (6) All applications for permits required to implement such plan
977 and schedule in this section shall be submitted to the permit
978 ombudsman within the Department of Economic and Community
979 Development.

980 (7) Each eligible party participating in the brownfield remediation
981 and revitalization program shall maintain all records related to its
982 implementation of such plan and schedule and completion of the
983 remedial action of the property for a period of not less than ten years
984 and shall make such records available to the commissioner or the
985 Commissioner of Energy and Environmental Protection at any time
986 upon request by either.

987 (8) (A) Not later than sixty days after receiving a remedial action
988 report signed and stamped by a licensed environmental professional
989 and a verification or interim verification, the Commissioner of Energy
990 and Environmental Protection shall notify the eligible party and the
991 commissioner whether the Commissioner of Energy and
992 Environmental Protection will conduct an audit of such remedial
993 action. Any such audit shall be conducted not later than one hundred
994 eighty days after the Commissioner of Energy and Environmental
995 Protection receives a remedial action report signed and stamped by a
996 licensed environmental professional and a verification or interim
997 verification. Not later than fourteen days after completion of an audit,
998 the Commissioner of Energy and Environmental Protection shall send
999 written audit findings to the eligible party, the commissioner and the
1000 licensed environmental professional. The audit findings may approve
1001 or disapprove the report, provided any disapproval shall set forth the
1002 reasons for such disapproval.

1003 (B) The Commissioner of Energy and Environmental Protection may
1004 request additional information during an audit conducted pursuant to
1005 this subdivision. If such information has not been provided to said
1006 commissioner within fourteen days of such request, the time frame for
1007 said commissioner to complete the audit shall be suspended until the

1008 information is provided to said commissioner. The Commissioner of
1009 Energy and Environmental Protection may choose to conduct such
1010 audit if and when the eligible party fails to provide a response to said
1011 commissioner's request for additional information within sixty days.

1012 (C) The Commissioner of Energy and Environmental Protection
1013 shall not conduct an audit of a verification or interim verification
1014 pursuant to this subdivision after one hundred eighty days from
1015 receipt of such verification unless (i) said commissioner has reason to
1016 believe that a verification was obtained through the submittal of
1017 materially inaccurate or erroneous information, or otherwise
1018 misleading information material to the verification or that material
1019 misrepresentations were made in connection with the submittal of the
1020 verification, (ii) any post-verification monitoring or operations and
1021 maintenance is required as part of a verification and has not been
1022 done, (iii) a verification that relies upon an environmental land use
1023 restriction was not recorded on the land records of the municipality in
1024 which such land is located in accordance with section 22a-133o and
1025 applicable regulations, (iv) said commissioner determines that there
1026 has been a violation of law material to the verification, or (v) said
1027 commissioner determines that information exists indicating that the
1028 remediation may have failed to prevent a substantial threat to public
1029 health or the environment for releases on the property.

1030 (k) Not later than sixty days after receiving a notice of disapproval
1031 or a verification or interim verification from the Commissioner of
1032 Energy and Environmental Protection, the eligible party shall submit
1033 to said commissioner and to the commissioner a report of cure of noted
1034 deficiencies. Within sixty days after receiving such report of cure of
1035 noted deficiencies by said commissioner, said commissioner shall issue
1036 a successful audit closure letter or a written disapproval of such report
1037 of cure of noted deficiencies.

1038 (l) Before approving a verification or interim verification, the
1039 Commissioner of Energy and Environmental Protection may enter into

1040 a memorandum of understanding with the eligible party with regard
1041 to any further remedial action or monitoring activities on or at such
1042 property that said commissioner deems necessary for the protection of
1043 human health or the environment.

1044 (m) (1) An eligible party who has been accepted into the brownfield
1045 remediation and revitalization program shall have no obligation as
1046 part of its plan and schedule to characterize, abate and remediate any
1047 plume of a regulated substance outside the boundaries of the subject
1048 property, provided the notification requirements of section 22a-6u
1049 pertaining to significant environmental hazards shall continue to apply
1050 to the property and the eligible party shall not be required to
1051 characterize, abate or remediate any such significant environmental
1052 hazard outside the boundaries of the subject property unless such
1053 significant environmental hazard arises from the actions of the eligible
1054 party after its acquisition of or control over the property from which
1055 such significant environmental hazard has emanated outside its own
1056 boundaries. If an eligible party who has been accepted into the
1057 brownfield remediation and revitalization program conveys or
1058 otherwise transfers its ownership of the subject property and such
1059 eligible party is in compliance with the provisions of this section and
1060 the brownfield investigation plan and remediation schedule at the time
1061 of conveyance or transfer of ownership, the provisions of this section
1062 shall apply to such transferee, if such transferee meets the eligibility
1063 criteria set forth in this section, pays the fee required by subsection (g)
1064 of this section and complies with all the obligations undertaken by the
1065 eligible party under this section. In such case, all references to
1066 applicant or eligible party shall mean the subsequent owner or
1067 transferee.

1068 (2) After the Commissioner of Energy and Environmental Protection
1069 issues either a no audit letter or a successful audit closure letter, or no
1070 audit decision has been made by said commissioner within one
1071 hundred eighty days after the submittal of the remedial action report
1072 and verification or interim verification, such eligible party shall not be

1073 liable to the state or any person for (A) costs incurred in the
1074 remediation of, equitable relief relating to, or damages resulting from
1075 the release of regulated substances addressed in the brownfield
1076 investigation plan and remediation schedule, and (B) historical off-site
1077 impacts including air deposition, waste disposal, impacts to sediments
1078 and natural resource damages. No eligible party shall be afforded any
1079 relief from liability such eligible party may have from a release
1080 requiring action pursuant to the PCB regulations or a release requiring
1081 action pursuant to the UST regulations.

1082 (3) The provisions of this section concerning liability shall extend to
1083 any person who acquires title to all or part of the property for which a
1084 remedial action report and verification or interim verification have
1085 been submitted pursuant to this section, provided (A) there is payment
1086 of a fee of ten thousand dollars to said commissioner for each such
1087 extension, (B) such person acquiring all or part of the property meets
1088 the criteria of this section, and (C) the Commissioner of Energy and
1089 Environmental Protection has issued either a successful audit closure
1090 letter or no audit letter, or no audit decision has been made by said
1091 commissioner not later than one hundred eighty days after the
1092 submittal of the remedial action report and verification or interim
1093 verification. No municipality, Connecticut brownfield land bank or
1094 economic development agency that acquires title to all or part of the
1095 property shall be required to pay a fee, provided the municipality,
1096 Connecticut brownfield land bank or economic development agency
1097 shall collect and pay the fee upon transfer of the property to another
1098 person for purposes of development. Such fee shall be deposited into
1099 the Special Contaminated Property Remediation and Insurance Fund
1100 established under section 22a-133t and such funds shall be for the
1101 exclusive use by the Department of Energy and Environmental
1102 Protection.

1103 (4) Neither a successful audit closure nor no audit letter issued
1104 pursuant to this section, nor the expiration of one hundred eighty days
1105 after the submittal of the remedial action report and verification or

1106 interim verification without an audit decision by the Commissioner of
1107 Energy and Environmental Protection, shall preclude said
1108 commissioner from taking any appropriate action, including, but not
1109 limited to, any action to require remediation of the property by the
1110 eligible party or, as applicable, to its successor, if said commissioner
1111 determines that:

1112 (A) The successful audit closure, no audit letter, or the expiration of
1113 one hundred eighty days after the submittal of the remedial action
1114 report and verification or interim verification without an audit
1115 decision by the Commissioner of Energy and Environmental
1116 Protection was based on information provided by the person
1117 submitting such remedial action report and verification or interim
1118 verification that the Commissioner of Energy and Environmental
1119 Protection can show that such person knew, or had reason to know,
1120 was false or misleading, and, in the case of the successor to an
1121 applicant, that such successor was aware or had reason to know that
1122 such information was false or misleading;

1123 (B) New information confirms the existence of previously unknown
1124 contamination that resulted from a release that occurred before the
1125 date that an application has been accepted into the brownfield
1126 remediation and revitalization program;

1127 (C) The eligible party who received the successful audit closure or
1128 no audit letter or where one hundred eighty days lapsed without an
1129 audit decision by the Commissioner of Energy and Environmental
1130 Protection has materially failed to complete the remedial action
1131 required by the brownfield investigation plan and remediation
1132 schedule or to carry out or comply with monitoring, maintenance or
1133 operating requirements pertinent to a remedial action including the
1134 requirements of any environmental land use restriction; or

1135 (D) The threat to human health or the environment is increased
1136 beyond an acceptable level due to substantial changes in exposure

1137 conditions at such property, including, but not limited to, a change
1138 from nonresidential to residential use of such property.

1139 (5) If an eligible party who has been accepted into the brownfield
1140 remediation and revitalization program conveys or otherwise transfers
1141 all or part of its ownership interest in the subject property at any time
1142 before the issuance of a successful audit closure or no audit letter or
1143 the expiration of one hundred eighty days after the submittal of the
1144 remedial action report and verification or interim verification without
1145 an audit decision by the Commissioner of Energy and Environmental
1146 Protection, the eligible party conveying or otherwise transferring its
1147 ownership interest shall not be liable to the state or any person for (A)
1148 costs incurred in the remediation of, equitable relief relating to, or
1149 damages resulting from the release of regulated substances addressed
1150 in the brownfield investigation plan and remediation schedule, and (B)
1151 historical off-site impacts including air deposition, waste disposal,
1152 impacts to sediments and natural resource damages, provided the
1153 eligible party complied with its obligations under this section during
1154 the period when the eligible party held an ownership interest in the
1155 subject property. Nothing in this subsection shall provide any relief
1156 from liability such eligible party may have related to a release
1157 requiring action pursuant to the PCB regulations, or a release requiring
1158 action pursuant to the UST regulations.

1159 (6) Upon the Commissioner of Energy and Environmental
1160 Protection's issuance of a successful audit closure letter, no audit letter,
1161 or one hundred eighty days have passed since the submittal of a
1162 verification or interim verification and said commissioner has not
1163 audited the verification or interim verification, the immediate prior
1164 owner regardless of its own eligibility to participate in the
1165 comprehensive brownfield remediation and revitalization program
1166 shall have no liability to the state or any person for any future
1167 investigation and remediation of the release of any regulated substance
1168 at the eligible property addressed in the verification or interim
1169 verification, provided the immediate prior owner has complied with

1170 any legal obligation such owner had with respect to investigation and
 1171 remediation of releases at and from the property, and provided further
 1172 the immediate prior owner shall retain any and all liability such
 1173 immediate prior owner would otherwise have for the investigation
 1174 and remediation of the release of any regulated substance beyond the
 1175 boundary of the eligible property. In any event, the immediate prior
 1176 owner shall remain liable for (A) penalties or fines, if any, relating to
 1177 the release of any regulated substance at or from the eligible property,
 1178 (B) costs and expenses, if any, recoverable or reimbursable pursuant to
 1179 sections 22a-134b, 22a-451 and 22a-452, and (C) obligations of the
 1180 immediate prior owner as a certifying party on a Form III or IV
 1181 submitted pursuant to sections 22a-134 to 22a-134e, inclusive, as
 1182 amended by this act.

1183 (n) A person whose application to the brownfield remediation and
 1184 revitalization program has been accepted by the commissioner or any
 1185 subsequent eligible party whose application to the brownfield
 1186 remediation and revitalization program has been accepted by the
 1187 commissioner shall be exempt for filing as an establishment pursuant
 1188 to sections 22a-134a to 22a-134d, inclusive, if such real property or
 1189 prior business operations constitute an establishment. Nothing in this
 1190 section shall be construed to alter any existing legal requirement
 1191 applicable to any certifying party at a property under sections 22a-134,
 1192 as amended by this act, and 22a-134a to 22a-134e, inclusive.

1193 (o) Notwithstanding the provisions of this section, eligible parties
 1194 shall investigate and remediate, and remain subject to all applicable
 1195 statutes and requirements, the extent of any new release that occurs
 1196 during their ownership of the property.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2016</i>	32-760
Sec. 2	<i>July 1, 2016</i>	New section
Sec. 3	<i>July 1, 2016</i>	New section

Sec. 4	<i>July 1, 2016</i>	New section
Sec. 5	<i>July 1, 2016</i>	New section
Sec. 6	<i>July 1, 2016</i>	New section
Sec. 7	<i>July 1, 2016</i>	12-81r(a)
Sec. 8	<i>July 1, 2016</i>	22a-133dd
Sec. 9	<i>July 1, 2016</i>	22a-133ii(a)
Sec. 10	<i>July 1, 2016</i>	22a-134(1)
Sec. 11	<i>July 1, 2016</i>	22a-134
Sec. 12	<i>July 1, 2016</i>	32-763(a)
Sec. 13	<i>July 1, 2016</i>	32-768(c)
Sec. 14	<i>July 1, 2016</i>	32-769

Statement of Purpose:

To authorize the creation of Connecticut brownfield land banks for the purpose of acquiring, remediating and selling brownfields on behalf of municipalities.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]